

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Jon Chapman, §  
*Plaintiff*, §  
§  
v. § Civil Action No. 4:18-CV-02726  
§  
Texas Department of Family and §  
Protective Services, §  
*Defendant*. §

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**Defendant Texas Department of Family and Protective Services’  
Original Answer and Defenses to Plaintiff’s Original Complaint**

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Defendant Texas Department of Family and Protective Services (“Defendant,” or “DFPS”), respectfully files its Original Answer to Plaintiff Jon Chapman’s Original Complaint (“Complaint”) and shows the Court as follows:

**ANSWER TO COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 8(d), Defendant denies each and every allegation contained in the Complaint except for those expressly admitted herein. The headings and numbered paragraphs below directly correlate to the sections and numbered paragraphs of the Complaint. Those titles and headings are reproduced in this Answer for organizational purposes only, and Defendant does not admit any matter contained therein.

**SUMMARY**

1. Defendant admits that Plaintiff served as a Program Administrator in the Special Investigations Division of DFPS. Defendant denies the remaining allegations in Paragraph 1 of the Complaint.
2. Defendant denies the allegations in Paragraph 2 of the Complaint.

3. Defendant admits that Plaintiff was not interviewed during the investigation conducted by DFPS. Defendant denies the remaining allegations in Paragraph 3 of the Complaint.

4. Defendant admits that DFPS demoted Plaintiff from Program Administrator for Special Investigations to CPS Special Investigations Investigator IV, effective February 15, 2018. Defendant denies the remaining allegations in Paragraph 4 of the Complaint.

5. Paragraph 5 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

6. Paragraph 6 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

#### **THE PARTIES AND JURISDICTION**

7. Paragraph 7 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis denies the allegations in their entirety.

8. Defendant admits that the Texas Department of Family and Protective Services is a state agency and that Defendant has operations within the Houston Division of the Southern District of Texas.

9. Defendant admits the allegations in Paragraph 9 of the Complaint.

10. Paragraph 10 contains assertions of law, conclusory statements, and/or

argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant admits that, as a general matter, 28 U.S.C. § 1331 grants this Court jurisdiction to hear federal questions. Defendant denies that it has committed any violation of applicable law or that Plaintiff has otherwise demonstrated this Court's subject matter jurisdiction over any claims against Defendant.

11. Paragraph 11 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant admits that, as a general matter, 28 U.S.C. § 1331 grants this Court jurisdiction to hear federal questions. Defendant denies that it has committed any violation of applicable law or that Plaintiff has otherwise demonstrated this Court's subject matter jurisdiction over any claims against Defendant.

12. Paragraph 12 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant admits that, as a general matter, 28 U.S.C. § 1391(b) addresses the appropriate venue for cases over which this Court may have jurisdiction, including that “[a] civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.” Defendant denies that it has committed any violation of applicable law.

### **FACTUAL BACKGROUND**

13. Defendant admits that Plaintiff served as a Program Administrator in the Special Investigations Division of DFPS. Defendant denies the remaining allegations in Paragraph 13 of the Complaint.

14. Defendant lacks sufficient knowledge or information to form a belief about

the remaining allegations contained in this Paragraph, and on that basis denies the allegations in their entirety.

15. Defendant admits that Plaintiff was not interviewed during the investigation conducted by DFPS. Defendant denies the remaining allegations in Paragraph 15 of the Complaint.

16. Defendant admits that DFPS demoted Plaintiff from Program Administrator for Special Investigations to CPS Special Investigations Investigator IV, effective February 15, 2018. Defendant denies the remaining allegations in Paragraph 16 of the Complaint.

17. Defendant denies the allegations in Paragraph 17 of the Complaint.

18. Defendant denies the allegations in Paragraph 18 of the Complaint.

19. Defendant denies the allegations in Paragraph 19 of the Complaint.

20. Defendant denies the allegations in Paragraph 20 of the Complaint.

21. Defendant denies the allegations in Paragraph 21 of the Complaint.

22. Paragraph 22 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

23. Paragraph 23 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

24. Defendant lacks sufficient knowledge or information to form a belief about the remaining allegations contained in this Paragraph, and on that basis denies the allegations in their entirety.

**TITLE VII CLAIMS OF RACE AND SEX DISCRIMINATION**

**A. Legal Standards**

25. Defendant repeats and reaffirms its answers to each and every allegation contained in the paragraphs above and incorporates the same herein as though fully set forth.

26. Paragraph 26 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

27. Paragraph 27 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

28. Paragraph 28 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

29. Paragraph 29 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

30. Paragraph 30 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

31. Paragraph 31 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

32. Paragraph 32 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

**B. Analysis**

33. Defendant repeats and reaffirms its answers to each and every allegation contained in the paragraphs above and incorporates the same herein as though fully set forth.

34. Paragraph 34 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

**C. Damages**

35. Defendant repeats and reaffirms its answers to each and every allegation contained in the paragraphs above and incorporates the same herein as though fully set forth.

36. Paragraph 36 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

37. Paragraph 37 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

38. Paragraph 38 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph.

Defendant further denies that any relief is appropriate or warranted.

39. Paragraph 39 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendant denies the allegations in this Paragraph. Defendant further denies that any relief is appropriate or warranted.

**JURY DEMAND**

40. Defendant admits that Plaintiff seeks a trial by jury. Defendant denies that any relief is appropriate or warranted.

**DAMAGES AND PRAYER**

Defendant denies that any relief sought by Plaintiff in paragraphs (a)-(h) in the "Damages and Prayer" section of his Complaint is appropriate or warranted.

**DEFENSES**

Defendant asserts the following defenses:

1. Defendant asserts the affirmative defense of sovereign immunity, to the extent applicable.

2. Defendant asserts the affirmative defense of limitations, to the extent applicable.

3. Plaintiff fails to state claims upon which relief can be granted.

4. Any alleged actions taken against Plaintiff were based on neutral, non-discriminatory, non-retaliatory practices.

5. Adverse employment actions taken with regard to Plaintiff, if any, were based solely on information, observation, or evidence unrelated to his protected activities, if any, and would have been taken regardless of Plaintiff's protected activities, if any.

6. Defendant asserts that it acted in good faith and without malice, willfulness, or intent.

7. Any challenged action, practice or policy taken against Plaintiff was taken for a legitimate business or governmental operations reason.

8. At all relevant times, Defendant took reasonable steps to prevent and promptly correct any harassment in the workplace, and Plaintiff unreasonably failed to take advantage of Defendant's preventive or corrective measures.

9. Plaintiff's damages are subject to the applicable cap on damages as required by law.

10. Plaintiff has failed to avoid or mitigate his damages as required by law.

11. Plaintiff's own acts and/or omissions caused or contributed to his injuries, if any.

12. Defendant reserves the right to assert additional affirmative defenses at a later date as such defenses become known to Defendant throughout the course of litigation.

**PRAYER**

Defendant prays that Plaintiff take nothing by this suit, that all costs be taxed and adjudged against Plaintiff, and that Defendant be granted such other relief to which it may be justly entitled.

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES E. DAVIS  
Deputy Attorney General for Civil  
Litigation

DAVID A. TALBOT, JR.  
Acting Chief, General Litigation Division

*/s/ Michael R. Abrams*

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*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served electronically through the Court's CM/EFC system on this the 12th day of November, 2018, to:

Ahad Khan  
AHAD KHAN LAW  
712 Main Street, Suite 900  
Houston, TX 77002  
[ak@ahadkhanlaw.com](mailto:ak@ahadkhanlaw.com)

*/s/ Michael R. Abrams*

Michael R. Abrams  
Assistant Attorney General